IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.81 OF 2005

IN

NOTICE OF MOTION NO.2724 OF 2003

IN

L.C. SUIT NO.3146 OF 2003

Shri Pinnint Veera Shreeram Reddy ... Appellant
(Orig. Plaintiff)

V/s

1.Municipal Corporation of Greater
Mumbai & Others ... Respondents
(Orig.Defendants)

Mr. R.A. Thorat with Ashish Naik for appellant

Mr. J.Xavier for respondent No.1

Mr.G.C.Singh for respondent No.2

Coram: A.S. Oka, J.

Date : 8th February,2005

P.C.

1. Heard the learned counsels for parties. By the impugned order dated 7/5/2004, the learned trial judge has declined to grant ad-interim relief in terms of prayer clause (c).

2. Prayer clause(c) reads thus.

> “that the Defendant Nos.2 and 3, their servants, agents, claiming through them be restrained by a permanent order and injunction from proceeding with the work of construction and/or work of development of any nature on the adjoining property bearing C.T.S.No.1058C and C.T.S.No.1063 unless I.O.D conditions of putting boundary wall in alignment with wall shown by Alphabets P-Q-R-S on the sketch plan, Exhibit “A” hereto between the suit property and the adjoining property is completed”.

It is not in a dispute that from 7/5/2004 there is no ad-interim relief in operation in terms of prayer clause (c) and that the compound wall has been completely constructed. When a notice of motion is ready for hearing, such a prayer for ad-interim relief need not be considered. Hence, appeal is dismissed.No order as to costs.

3. The learned trial judge will decide notice of motion Nos. 2724 of 2003 and 3310 of 2003 as expeditiously as possible and preferably on or before 7/5/2005

4. All the contentions of parties are kept open. Parties to act on an authenticated copy of this order.

(A.S. Oka, J.)